EXHIBIT 9

Page 1

1   UNITED STATES DISTRICT COURT

2   SOUTHERN DISTRICT OF NEW YORK

3

     THE AUTHORS GUILD, INC., et)
4   al.,   )Civil Action No.
)05-CV-8136 (DC)
5   Plaintiffs,   )
)
6   vs.   )
)
7   GOOGLE, INC.,   )
)
8   Defendant.   )
     ----------------------------)
9   Thursday, Apri 19, 2012
                     9:08 a.m.
10

11

12

                Confidential Videotaped Deposition
13   of PAUL AIKEN, held at the offices of
         Milberg, LLP, One Penn Plaza, New York,
14   New York, pursuant to Rule 30 (b)(6)
         Notice, before Otis Davis, a Notary
15   Public of the State of New York.

16

17

18

19

20

21

22

23

24

25   (#442577)

1   Q.   So if I was doing genealogical research

2   on my great-grandmother, she might be mentioned in a

3   book, but not identified as a topic in the card

4   catalog entry pertaining to that book; is that right?

5   A.   That's correct.

6   Q.   So if I were conducting such genealogical

7   research on my great-grandmother and wanted to find

8   every book in which her name had been mentioned, in

9   the absence of Google Books, would there be a way for

10   me to do that other than by reading every book in the

11   library that might possibly include a reference to

12   her?

13   MR. BONI: Object to form.

14   You can answer.

15   A.   Yes.   Except for Google's bold act of

16   infringing millions of copyrights, you would not be

17   able to find your great-grandmother's name in an

18   out-of-print in-copyright book.

19   Q.   Do you think Google's Library Project has

20   helped the sale of books?

21   A.   No.

22   Q.   Would you expect Google's Library Project

23   to have had any positive or negative effect on book

24   sales?

25   A.   I would expect it to have a negative

1   in your testimony.

2   Are you aware of any instance in which

3   Google's security has been compromised with respect

4   to the digital copies of books made in connection

5   with the Library Project?

6   A.   Yes.

7   Q.   What such instances are you aware of?

8   A.   Early on after the announcement of

9   Google's Library Project, I recall that some hackers

10   had developed a program to basically repeatedly

11   search the particular book and pull the --

12   essentially pull the string of text out of Google's

13   database for a title through a brief period of

14   search.

15   Q.   Do you know whether it's possible to

16   obtain a complete copy of a book that is included

17   within Google Books' search results in snippet

18   display by virtue of running such repetitive

19   searches?

20   A.   That's what I was just talking about.

21   Q.   Do you know whether Google blacklists any

22   portions of books that are included in snippet

23   display?

24   A.   No.

25   Q.   Do you know whether Google has any

1   security measures in place to prevent the repetitive

2   running of searches in order to try to aggregate

3   snippets from a single book?

4   A.   My understanding from engineers at Google

5   is that they do have such programs in place.

6   Q.   Do you know whether those programs are

7   effective?

8   A.   No.

9   Q.   Are you aware of any instance in which

10   any security regime that protects a digital copy of a

11   book made as part of the Google Library Project has

12   been compromised?

13   MR. BONI: Other than what he just

14   testified to?

15   Q.   Other than the instance of running

16   multiple word searchs on Google Books itself.

17   A.   Could you repeat that one more time.

18   Q.   Sure.

19   Are you aware of any instance in which

20   any security measures protecting the digital copies

21   of books made as part of the Google Library Project

22   have been compromised other than the instance you

23   described of running searches for multiple words that

24   appear within a single book on Google Books itself?

25   A.   No. I should say, I believe there were

1   multiple such attempts done and successfully done to

2   pull out e-books from Google's program early in the

3   project. I don't know what happened later in the

4   project.

5   Q.   Do you know whether any of those attempts

6   resulted in the unauthorized publication of a book on

7   the Internet?

8   A.   No, I don't.

9   MS. DURIE: Why don't we take a break.

10   THE VIDEOGRAPHER: Here now marks the end

11 of tape 3 of the deposition of Mr. Paul Aiken. The

12 time is 2:25 p.m., we're now off the record.

13   (Recess taken.)

14   THE VIDEOGRAPHER: Here now marks the

15 beginning of tape 4 of the deposition of Mr. Paul

16 Aiken. The time is 2:35 p.m., we're back on the

17 record.

18   MS. DURIE: Let me have marked as the

19 next exhibit a copy of the tax return relating to The

20 Authors Guild.

21   (Aiken Exhibit 7, 2009 Authors Guild tax

22 return, marked for identification, as of this date.)

23   Q.   Mr. Aiken, do you recognize what has been

24 marked as Exhibit 7?

25   A.   Yes.

1   used, over books not in the program. Those figures

2   from Amazon should be taken with a grain of salt

3   because Amazon plays its cards very close to the

4   past. They would never provide information on the

5   types of books and how sales might be affected.

6   Publishers have also told me that it

7   increases sales, but they've often been skeptical

8   about how much and whether or not those figures are

9   in any way artificially affected by Amazon in

10   changing its search results within Amazon based on

11   whether or not it's in the Search Inside the Book

12   program. I don't know one way or another what may be

13   done behind the scenes.

14   Q.   Do you think it's more likely than not

15   that Search Inside the Book on average has a net

16   positive effect on sales?

17   A.   Yes.

18   Q.   Would you agree that Search Inside the

19   Book has created a browsable bookstore?

20   MR. BONI: Object to form.

21   A.   No.

22   MR. BONI: You can answer.

23   A.   No.

24   MS. DURIE: Let me have marked as the

25   next exhibit a multipage document, the first page of